



Dominican Republic

Country Reports on Human Rights Practices - [2003](#)

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The Constitution provides for a popularly elected president and a bicameral congress. President Hipolito Mejia of the Dominican Revolutionary Party (PRD) took office in August 2000 after a generally free and fair election, replacing President Leonel Fernandez of the Dominican Liberation Party (PLD). The PRD also controlled the Senate, with 29 of 32 seats, and held 72 out of 150 seats in the Chamber of Deputies, 4 short of an absolute majority. The Constitution provides for an independent judiciary; however, interference from outside authorities remained a problem.

The National Police, the National Department of Investigations (DNI), the National Drug Control Directorate (DNCD), and the armed forces (army, air force, and navy) form the security forces. The military's domestic responsibilities include maintaining public order and protecting persons and property. The police are under the Secretary of the Interior and Police; the military is under the Secretary of the Armed Forces; and the DNI and the DNCD, which had personnel both from the police and from the military, report directly to the President. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority or control. Some members of the security forces committed a number of human rights abuses.

The market-based economy continued to diversify. The country has a population of approximately 8.8 million, including an estimated 650,000 undocumented Haitians. Tourism, telecommunications, and exports from Free Trade Zones (FTZs) were major sources of foreign currency and providers of employment. Remittances from abroad were more than \$2 billion during the year. As a result of the collapse of a large commercial bank, followed by several smaller bank failures, the economy contracted by 1.3 percent. Central Bank intervention to protect depositors sharply increased the money supply and the fiscal deficit, causing a depreciation in the peso/dollar exchange rate. According to the Central Bank, inflation was 43 percent. Unemployment was estimated at 16.1 percent but was probably higher. Income distribution in the country was highly skewed.

The Government's human rights record remained poor; although there were improvements in some areas, serious problems remained. Members of the security forces continued to commit unlawful killings. The police and, to a lesser degree, the military tortured, beat, or otherwise abused detainees and prisoners. The Government referred cases of police and military abuse to the civilian courts, instead of holding nontransparent proceedings in police or military tribunals. Prison conditions ranged from poor to harsh. Some prisoners died in custody due to negligence. Police arbitrarily arrested and detained suspects and suspects' relatives. While the judiciary continued efforts to consolidate its independence and to improve the efficiency of the courts, lengthy pretrial detention and long trial delays continued to be problems. The authorities sometimes infringed on citizens' privacy rights, and police entered private homes without judicial orders. Journalists and editors often practiced self-censorship. Police on several occasions used excessive force to disperse demonstrators. The Government restricted the movement of Haitian and Dominican-Haitian migrants and forcibly expelled some of them. Other serious problems included violence and discrimination against women; child prostitution; abuse of children; discrimination against persons with disabilities; child labor; and severe discrimination against and abuse of Haitian migrants and their descendants. There continued to be reports of forced labor. Many workers continued to face unsafe labor conditions. Trafficking in persons was a serious problem.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings; however, members of the security forces committed many killings that were unlawful, unwarranted, or involved excessive use of force. The National Commission on Human Rights reported approximately 250 extrajudicial killings, the National Police reported approximately 150, and the Dominican Committee for Human Rights reported 292 such killings. Greater precision was not possible, because accounts of incidents varied and some went unreported.

In the majority of killings by police, the police stated that the deaths resulted from an exchange of gunfire in the course of an arrest, requiring officers to act in self-defense. A number of eyewitness accounts matched police reports; others did not. In a few cases, the police rearranged the crime scene to make it appear as if deadly force had been required for self-defense. For example, in September police officer Cristino Alvarez Ventura killed a youth in a case of mistaken identity. Realizing he had killed the wrong person, Alvarez planted a revolver in the victim's hand to back his claim of self-defense. Public outcry prompted an investigation by a police commission, which determined that Alvarez was the sole person responsible for the killing. The case is expected to be tried in a civilian, rather than a police or military, court.

In September, police officer Rubio Blondy and another officer killed a 22-year-old in another case of alleged mistaken identity. According to relatives, the victim showed his identity card to police officers before being shot while having a snack at a cafeteria in Santo Domingo. In December, the case was sent to the civilian Court of Instruction in the National District.

In October, two off-duty police officers, Abel Garcia and Luis Castro Concepcion, shot and killed an advertising agent in San Francisco de Macoris. The authorities sent the case to a police tribunal, and a hearing was scheduled for February 2004.

The new National Police Chief, appointed in 2002, submitted several cases of human rights abuses committed by members of the National Police and armed forces to civilian criminal courts. The National Commission on Human Rights reported that in the first 11 months of year, authorities remanded 114 members of the National Police to courts on accusations of extrajudicial killings. Of these, 79 were remanded to civilian courts.

Human rights organizations stated that the police employed unwarranted deadly force less often against criminal suspects than in previous years, although uniformed vigilantism persisted on a less-than-deadly level. Criminals who refused to pay police "commissions"--bribes to ignore criminal activity--were sometimes beaten or shot in an appendage rather than killed. The lack of qualified investigators and the nontransparent conduct of investigations of killings in "exchanges of gunfire" resulted in impunity in a number of cases.

A significant number of deaths occurred in custody due to negligence by prison authorities (see Section 1.c.).

Private Eduardo Ortiz Delgadillo, who allegedly killed a bus driver in March 2002, was free on bail at year's end. His case was in the 7th Penal Court in Santo Domingo, but a hearing had not yet been scheduled. Police officer Carlos Manuel Ramirez Herrera remained in Najayo prison for the April 2002 killing of a youth during a protest. His trial was pending in the San Cristobal court of instruction. There was no further action in the case of the military officers accused of killing Reformist Social Christian Party (PRSC) activists in May 2002.

Police lieutenant Juan Bautista Berroa and his accomplices remained in a prison in San Francisco de Macoris for an unlawful killing in May 2002; their trial remained pending.

In February, a court sentenced police officer Demetrio Mario Leonardo to 12 years in prison and ordered him to pay \$60,000 (3 million pesos) in damages for an unlawful killing committed in 2001.

In November, the trial began of police Private Francisco "Tyson" and codefendant Sergeant Medina Medina, charged with a 2001 killing. A civil court ordered Tyson jailed at the Special Operations Camp in Manoguayabo; Sergeant Medina Medina was free on bail.

Pedro Encarnacion Baez, charged with the 2001 killing of Carmelo del Rosario, has been free on bail since December 2002. His case was assigned to the Court of Instruction in La Romana.

In July, the Appellate Court gave its verdict on the appeal of the 30-year sentences of retired General Joaquin Pou

Castro, former air force officer Mariano Cabrera Duran, and civilian Luis Emilio de la Rosa Beras, convicted in 2000 for the 1975 murder of journalist Orlando Martinez Howley, a critic of the Balaguer administration. De la Rosa, Pou Castro, and Cabrera Duran were sentenced to 10, 12, and 15 years respectively. Each defendant was also fined \$100,000 (5 million pesos). The Appellate Court judges did not find the Government culpable and did not fine the State the requested \$2.4 million (120 million pesos). The Santo Domingo Human Rights Institute requested that the Government submit the Martinez case to the Inter-American Commission on Human Rights (IACHR) for review; the Government did not follow through on that request.

b. Disappearance

There were no reports of politically motivated disappearances.

In 2002, an instruction judge ordered that former Secretary of the Armed Forces Constantino Matos Villanueva be tried in a criminal court in the case of Narciso Gonzalez, a university professor and critic of the Balaguer Government who disappeared in 1994. The judge excluded two other individuals, General Leonardo A. de Jesus Reyes Bencosme and Air Force Colonel Manuel Concepcion Perez Volquez, from the case, although in 2001 the victim's family appealed this decision; that appeal and Matos Villanueva's contest of the decision to try him in criminal court remained pending in Santo Domingo's Court of Appeal at year's end. The defendants continued working in various capacities for the Government. There was no action on the family's complaint to the IACHR.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution and the law prohibit torture and other forms of physical abuse. Senior police officials took this prohibition seriously and regularly investigated reports of torture and abuse; however, some security forces personnel, primarily mid-level and lower-ranking police officers, continued to torture, beat, and otherwise physically abuse detainees and prisoners.

Lack of supervision, training, and accountability throughout the law enforcement and corrections systems exacerbated the problem of physical abuse. Human rights groups reported repeated instances of physical abuse of detainees, including various forms of torture, beatings, and sexual abuse. More than 20 young men suffered severe knee injuries or amputations due to police violence. The Dominican Human Rights Committee received multiple complaints of torture from detainees at the Department of Theft at police headquarters in Santo Domingo, as well as from prisons in Mao, Barahona, Azua, and Santiago.

According to human rights organizations, both the National Police and prison officials used forms of torture. The method most often used was beating. Other forms included asphyxiation with plastic bags to elicit confessions and a method called "roasting the chicken" in which the victim was placed over hot coals and turned. Human rights advocates described another form of abuse called "the toaster," in which guards laid shackled prisoners on a bed of hot asphalt for an entire day and beat them with a club if they screamed. Human rights advocates described a police practice called "golpe de pollo" in which police beat a person's ears until they bled. Another torture method was that of enclosing detainees in water cisterns for lengthy periods.

In January, a police officer from Bani was videotaped as he removed a prisoner from a holding cell, took him to the patio area of the police station, then hit the prisoner on the face, head, and buttocks in front of an audience of local residents. The authorities arrested the police officer and sent the case to a police tribunal in Santo Domingo. The tribunal dismissed all charges, and the officer remained on the force.

In June, the sister and female friend of a man accused of hotel robbery reported that police Lieutenant Valenzuela tortured and beat their accused relative in custody (see Section 1.d.).

According to the National Commission on Human Rights, military and police officials were reported to beat, torture, and randomly deport Haitians living in the border towns of Pedernales and Elias Pina (see Section 2.d.).

Police Colonel Francisco Beras Santos, accused in 2002 of torture and sexual violation of a woman in his police station, was free on bail. His court hearing was rescheduled several times and remained pending at year's end.

The National District Prosecutor's office had a program of placing lawyers in high-volume police stations and in several DNCD offices to monitor the investigative process and to ensure that detainees' rights were respected (see Section 1.d.). This program remained geographically limited, principally to the Santo Domingo metropolitan area, with a lesser presence in Santiago. There was some evidence that assistant prosecutors at times acquiesced in

traditional police practices rather than attempt to raise these practices to constitutional standards. In some instances, authorities interpreted the presence of prosecutors as meaning that detainees could be held more than 48 hours after being transferred from "police" custody to "prosecutorial" custody (see Section 1.d.).

The law provides penalties for torture and physical abuse, including sentences from 10 to 15 years in prison. Civilian prosecutors sometimes filed charges against police and military officials alleging torture, physical abuse, and related crimes. New abuse and torture cases were remanded to civilian criminal courts as they arose. However, submission to civilian judicial authority was sometimes still contested by mid-level officers (see Section 1.e.).

During the year, the authorities dismissed numerous government employees for links with groups engaged in smuggling (see Section 6.f.). In April, the Court of Instruction determined that Congressman Guillermo Radhames Ramos Garcia (formerly a consul in Cap Haitien) should stand trial on charges of alien smuggling. In June, Garcia lost an appeal to throw out the charges. Garcia evaded arrest for months until Congress reconvened August 16 and remained free, citing parliamentary immunity. On October 22, the Supreme Court began trial proceedings and referred the case to criminal court on October 30, where a further hearing was held on December 3. When a translator for two non-Spanish speaking defendants did not appear, the court postponed the trial until January 2004.

Human rights courses were offered in the training curriculums for military and DNCD enlisted personnel and officers. The Military Institute of Human Rights offered diploma courses in human rights and regularly sent representatives to border units to conduct mandatory human rights training. More than 3,000 members of the military received training during the year. In August, the Institute published a book about human rights and the role of the military, written by its Assistant Academic Director. However, monitoring and sanctioning systems for abuses of human rights remained ineffective.

Prison conditions ranged from poor to harsh. Reports of torture and mistreatment in prisons were common. The prisons were seriously overcrowded, health and sanitary conditions were poor, and some prisons were out of control of the authorities. The General Directorate of Prisons was under the authority of the Public Ministry and was seriously under-funded. Budget allocations for necessities such as food, medicine, and transportation were insufficient. Prisoners and human rights groups alleged that prisoners were not taken to their trials unless they paid bribes to the guards (see Sections 1.d. and 1.e.). Prisons employed few physicians and had few medical supplies. Prisoners immobilized by AIDS or terminally ill were not transferred to hospitals, but some terminal-stage inmates were released to spend their last days at home.

According to the Attorney General's office, the police and the military held more than 14,500 prisoners and detainees in 34 prisons with a total intended capacity of approximately 9,000 persons. The military operated 21 prisons with a total of 5,084 prisoners, and the National Police operated 13 prisons, with a total of 9,557 inmates. A warden was responsible for running each prison and reported to the Attorney General through the General Directorate of Prisons. A police or military colonel (or lieutenant colonel), generally appointed for a period of only 3 to 6 months, was responsible for providing security and notionally reported to the warden. In practice, the colonel was in charge of the prison, and neither the Directorate of Prisons nor the individual wardens had much power. Some prisons were totally out of the authorities' control and were in effect operated by armed inmates. Individual inmates could secure a tolerable level of existence only by paying for food, sleeping space, and medical care.

Virtually all prisons experienced extreme overcrowding. At La Victoria prison, the largest in the country, up to 150 inmates were placed in cells designed to hold 24. Prisoners complained of having to sleep in bathrooms due to lack of space. The media reported a riot at a prison in Moca, provoked by the death of a neglected inmate, by lack of medical care, and by overcrowding. During the year, other prisoners died due to negligence. The press and human rights groups also reported extensive drug and arms trafficking within the prisons, as well as prostitution and sexual abuse, including abuse of minors. The DNCD reported finding significant amounts of crack cocaine, heroin, marijuana, and weapons in a cell at Rafey prison in Santiago.

Inmates said that the food provided was unacceptable, and most sought to beg or purchase food from persons in the vicinity of the prison or to obtain it from family members. Visitors often had to bribe prison guards in order to visit prisoners. Female visitors often were forced to strip naked prior to entering the prison and were harassed sexually by prison guards.

Pretrial detainees were held together with convicted prisoners. Inmates were not separated by crime within the prison population; however, they could be put into solitary confinement for disturbances while incarcerated.

Female inmates were separated from male inmates. In general, conditions in the female prison wings were better

than those in male prison wings. There were some reports of guards abusing female inmates physically and sexually. There were also reports that in the Najayo prison, guards forced women into prostitution in exchange for food and protection. Female inmates, unlike their male counterparts, were prohibited from receiving conjugal visits. Those who gave birth while incarcerated were permitted to keep their babies with them for 1 year.

The law requires that juveniles be detained separately from adults; however, juveniles often were mixed with the general population. The authorities sometimes treated minors as adults and incarcerated them in prison rather than juvenile detention centers. The press reported a high incidence of juveniles detained with adult prisoners being forced into sexual servitude in return for protection.

The Government permitted prison visits by independent human rights observers and by the press.

d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention were problems. The Constitution provides for the security of the individual against imprisonment without legal process, bars detention beyond 48 hours without the detainee being presented before judicial authorities, and prohibits custodial authorities from not presenting detainees when requested. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held. However, the police continued to violate constitutional provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit. The police typically detained all suspects and witnesses in a crime and used the investigative process to determine who were innocent and merit release, and whom they should continue to hold. Additionally, police continued to detain relatives and friends of suspects in order to pressure suspects to surrender or to confess.

The National Police, numbering more than 27,000, serve throughout the country; there are no separate municipal forces. The Ministry of the Interior and Police is responsible for making policy decisions affecting the police force. The Institute of Human Dignity, a branch of the National Police, monitors human rights abuses committed by members of the National Police. Chief of Police General Jaime Marte Martinez assumed control in January 2002 with an emphasis on professionalism and a mandate to reduce police abuses of human and civil rights. As of October, more than 1,800 members of the National Police had participated in human rights and dignity workshops.

Police officers were fired for violent attacks, extortion, and drug use. Significant problems of this nature remained, in part because of insufficient vetting of the backgrounds of police recruits. It was alleged that many persons with prior criminal records were incorporated into police ranks, either under false names or with identification or recommendations from other state institutions, such as the army. Many members of the police force lacked basic education, had received inadequate training, and showed weak discipline, all factors that directly contributed to the extrajudicial or unwarranted killings (see Section 1.a.).

Detainees at police headquarters in Santo Domingo, known as "the palace," reported that they were held for 15 to 21 days. Juveniles held at the Department for Minors at the Villa Juana police station commonly were held well beyond the 24-hour limit for minors, which was attributed to delays by the Juvenile Defender--the Public Ministry official in charge of interrogating minors--in sending them before a Juvenile Court judge. The law prohibits interrogation of juveniles by the police or in the presence of police.

Most detainees and prisoners could not afford adequate defense services. Several nongovernmental organizations (NGOs) offered limited legal services free of charge. The program of the Commissioner for the Reform and Modernization of Justice, which had lawyers to defend persons at no charge, ceased operation in February due to lack of funds from the central government's budget. In May 2002, the Supreme Court created a National Office of Judicial Defense to provide legal advice and representation to indigent persons. Foreign donors supported this program. As of January, 14 lawyers had completed the office's training program; they were the only public defenders in the country and served only Santo Domingo and Santiago. The Supreme Court paid the public defenders' salaries without additional funding from the Government. The Supreme Court also paid 100 part-time defense lawyers; these lawyers rarely communicated with defendants prior to scheduled court appearances and were not properly trained.

Due to the historical inefficiency of the courts (see Section 1.e.), the granting of bail served as a de facto criminal justice system, and defendants awarded bail rarely faced an actual trial. In general, few defendants were granted bail.

Police continued the practice of making frequent sweeps or roundups in low-income, high-crime communities in which they arrested and detained individuals arbitrarily, allegedly to fight delinquency. During these sweeps, police

arrested large numbers of residents and seized property including motorcycles, other vehicles, and weapons. The armed forces carried out similar sweeps, in which they closed down major routes into Santo Domingo, searched cars for weapons and drugs, and detained individuals thought to be criminals. Following the indiscriminate arrests, police regularly detained individuals for 20 days or more while they looked for a reason to charge them. Human rights organizations reported that individuals detained in these roundups frequently were beaten. Police stated that they relied upon unlawful detention without presentation to a court because some cases involved more complicated investigations. However, there was a clear pattern of police arrests of individuals before undertaking adequate investigation, and reliance on confessions obtained under questionable circumstances to make the cases (see Section 1.c.). Prosecutors generally did not actively investigate cases; they often depended on police reports, many of which were based on forced confessions.

A related problem was the police practice of arresting and detaining individuals solely because of a familial or marital relationship to a suspect. A suspect's parents, siblings, or spouse were all vulnerable to this practice, the goal of which was to compel an at-large suspect to surrender or to coerce a confession from one already arrested. For example, in June, police officers detained the sister and female friend of a man accused of hotel robbery in the Villa Consuelo sector of Santo Domingo, allegedly to elicit a confession. The victims reported the incident to the Dominican Center for Legal Advice and Investigations (CEDAIL).

Local human rights observers reported roundups of Haitian and Dominican-Haitian construction workers. Officials allegedly took groups of darker-skinned or "Haitian-looking" individuals to empty buildings soon after they were paid, in order to extort money from them (see Section 5).

Many suspects endured long pretrial detention. According to the General Directorate of Prisons, 70 percent of the national prison population were "prisoners without sentences," an increase of 3 percent from 2002. The average pretrial detention throughout the country was well over 6 months. Time served in pretrial detention counted toward a sentence.

The failure of prison authorities to produce the accused for court hearings was slightly less pronounced during the year but still caused a significant percentage of trial postponements (see Section 1.e.). Prisoners often had their court dates postponed because they were not taken from the prison to court, or because their lawyer or witness did not appear. The authorities held some prisoners even though there were no formal charges against them.

A large backlog of criminal cases remained in the National District and throughout the country. The Supreme Court's plans to unclog the court dockets proceeded slowly due to budget constraints. Dockets were crowded with traffic infractions that, by statute, should have been heard in traffic courts; these courts had not been established, due to a lack of funds. Other complications in clearing the backlog arose from the lack of funds for transporting prisoners to court. Many cases were rescheduled when the accused or key witnesses did not appear. In some instances, a defendant would appear before the judge on the scheduled trial date, but the trial would not go forward due to the absence of one or more co-defendants. The decision of the trial judge to decline to try co-defendant cases separately discriminated against a defendant who complied with the law.

In 2002, the Supreme Court began a pilot program to bring the courts to the jails to expedite the processing of inmates, since transporting inmates to the courts was one of the biggest obstacles to the administration of justice. The program, which should help relieve prison congestion, began at San Cristobal Najayo jail and expanded to La Victoria prison, the largest jail in the country, and to the prison in Monte Plata. From January to September, these courts decided 622 of the 758 cases presented, leaving only 136 cases pending. The Supreme Court also established mobile courts of instruction.

The law prohibits forced exile, and there were no reports of its use. However, some persons who asserted that they were citizens were expelled to Haiti (see Section 2.d.).

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, public and private entities persisted in attempts to undermine judicial independence. The judiciary received training funded by foreign donors, designed to improve its ability to resist outside interference, but undue influence remained a problem.

The judiciary includes a 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are specialized courts that handle contentious administrative, labor, land, and juvenile matters. The Supreme Court is responsible for naming all lower court judges according to criteria defined by law. The Government has established 17 of the 25 tribunals provided for by law and 5 courts of appeals for children and

adolescents. The revised Code for Minors, signed into law in August, outlines the judicial system for criminal cases involving juveniles and family disputes. The new code also sanctions juveniles who commit crimes with penalties of 1 to 3 years' detention in a juvenile prison for adolescents who were 13 to 15 years old at the time of infraction and 1 to 5 years for adolescents who were 16 to 18 years old (see Section 5).

Until recently, military and police tribunals enjoyed exclusive jurisdiction over cases involving members of the security forces; however, many cases of killings allegedly committed during the year by members of the security forces were remanded to civilian criminal courts (see Section 1.a.). The judiciary was slow to adjudicate these cases despite continuing donor-assisted judicial reform programs. Nonetheless, human rights groups agreed that the practice of remanding cases involving human rights abuses committed by members of the security forces to civilian courts was becoming established.

The judicial system is based primarily on the Napoleonic Code. Judges, rather than juries, render all verdicts. The investigative process begins with the arrest of possible suspects. During the investigative phase, suspects are questioned repeatedly and urged to confess. The Constitution requires that arrests be made on judicial warrant except when the suspect is caught in the act. It establishes the citizen's right not to be deprived of liberty without trial or legal formalities, or for reasons other than those provided by law; the right not to be a witness against oneself; and the right to a defense in an impartial and public trial. The authorities commonly violated these rights.

The most serious and common violations of these rights occurred when police detained suspects, sometimes for many days, without allowing them to contact family members, while subjecting them to frequent questioning (see Section 1.d.). Although accused persons were entitled to have an attorney present, police often did not permit them to contact legal counsel. If an attorney was engaged, a police officer might not permit him or her to be present during questioning. Torture frequently was used to coerce a confession during questioning (see Section 1.c.). Under these circumstances, suspects might confess under duress to acts that they had not committed. The results of these interrogations often constituted the only evidence presented at the trial.

The remedy of "amparo," an action any citizen may bring for violation of a constitutional right, including violations by judicial officials, has been applied in accordance with the terms of the American Convention on Human Rights. The Military Human Rights Institute published a book for its students about the military's role in protecting human rights and the traditional use of an amparo. Alternative dispute resolution is used in some criminal matters, but without any legal basis.

In 2002, the Government adopted a new Criminal Procedures Code intended to replace the Napoleonic system. The new code supports an accusatory system that should accelerate the processing of criminal cases. The code also can be interpreted as providing that any crime may be tried in civilian court; this would imply that military or police tribunals should be used only for disciplinary actions. In November, the Attorney General's Office and the Supreme Court each issued resolutions to effectuate changes required by the new code. The changes include a system under which police and prosecutors are required to read defendants their rights upon arrest; creation of an alternative dispute resolution mechanism to deal with certain crimes; the requirement that judges issue public oral dispositions on petitions for bail and in cases in which the maximum penalty is less than 3 years of incarceration; and the physical relocation of the defendant and defense counsel within the courtroom so that they are collocated with the prosecutor. The Attorney General's office and the judiciary also instituted "on-call" judges to provide 24-hour support to police who require immediate attention in the issuance of arrest warrants. The new code is scheduled to be fully implemented in September 2004.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution contains provisions against arbitrary entrance into one's home except when police are in hot pursuit of a suspect or when a suspect is caught in the act of committing a crime. All other entrances require a judge to issue an arrest or search warrant; however, the police conducted illegal searches and seizures. The Dominican Human Rights Committee reported that police carried out raids on private homes in many poor Santo Domingo neighborhoods. Additionally, police continued to detain relatives and friends of suspects in order to pressure suspects to surrender or to confess.

Although the Government denied using unauthorized wiretapping and other surreptitious methods to interfere with the private lives of individuals and families, human rights groups alleged continued interference. There was an active but illegal private wiretapping industry.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were instances of official intolerance of the media.

Newspapers and magazines presented a diversity of opinion and criticism. At the beginning of the year, there were eight daily and seven weekly newspapers and three weekly magazines. Editors at times practiced self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners.

There were many privately owned radio and television stations, broadcasting a wide spectrum of political views. The Government controlled one television station.

The Inter-American Press Society criticized the judicial takeover of the media outlets owned by defunct bank Baninter, including Listin Diario, El Expreso, television channels 13 and 27, and radio station RCC. All of the editors of these outlets resigned and were replaced by government-appointed personnel. Ramon Baez Figueroa, majority shareholder of Baninter and Listin Diario, was the subject of an ongoing criminal investigation for fraud and money laundering. Baez Figueroa, arrested but freed on bail, petitioned the courts to return the media outlets to him, but the case was pending in the courts at year's end.

In July, the DNI detained two radio broadcasters for slander against the President. During their radio program broadcast in Monte Cristi, located in the far northwest corner of the country, the hosts asked their listeners to rank the chances of the leading contenders in the 2004 presidential election in a race with the devil. President Mejia lost to the devil in the radio poll. The radio hosts were released after several days. The Inter-American Press Society criticized the arrest and accused the Government of official intolerance toward the press.

In November, a television broadcaster with close ties to the opposition PLD party lost his job after he reported that the Secretary of the Armed Forces was handing out money to potential PRD voters. According to the broadcaster and the Dominican School of Journalists, the Government pressured the broadcaster's employer to fire him. The employer confirmed the dismissal but said it was simply an internal company decision not to retain his services.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respected this right in practice; however, there were some exceptions, and the Government at times restricted this right. Outdoor public marches and meetings require permits, which the Government usually granted; however, police officers used force to break up demonstrations on several occasions during the year, sometimes causing deaths and injuries.

In September, many persons were injured during protests against extensive power outages. A 15-year-old boy was shot and killed when police attempted to disperse crowds in a Santo Domingo neighborhood. In November, during a national general strike, at least 8 persons were killed and 34 wounded; police arrested over 500 protesters, most of whom were released within 48 hours. Prior to the general strike, police arrested approximately 100 persons for attending organizational meetings.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution prohibits discrimination on religious grounds, and many religions and denominations were active.

The Catholic Church enjoyed special privileges not extended to other religions, under the terms of a concordat signed with the Government in 1954. For example, the Cardinal has the rank of a military officer, and there is a Catholic church at the Presidential Palace. The Catholic Church also received public funding to cover some church

expenses such as rehabilitation of church facilities. However, a complete waiver of customs duties on imports is extended to all religious denominations.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for freedom of travel, except for limitations imposed under judicial sentence or for police regulations pertaining to immigration and health, and the Government generally respected these provisions in practice; however, there were some exceptions. For example, human rights groups alleged that many Haitians were not allowed to leave the sugar cane plantations where they worked. Police officers occasionally blocked roads to search cars for weapons and drugs (see Section 1.d.). Local and international human rights groups cited discrimination against Haitian migrants, who were subject to arbitrary and unilateral action by the authorities. According to the National Commission on Human Rights, the military and police collaborated with their Haitian counterparts at the border to accept bribes from Haitians attempting to cross illegally.

Haitians continued to immigrate in great numbers to the country in search of economic opportunity, some legally but the vast majority without legal documents. The Ministry of Labor estimated that 47 percent of Haitians in the country had arrived by walking across the border. According to the Socio-Cultural Movement of Haitian Workers (MOSCTHA - a human rights NGO), 98 percent of Haitians in the country were undocumented. Government officials assisted some illegal migration in return for payments. Throughout the year, the security forces, particularly the army, repatriated undocumented Haitian nationals believed to be in the country illegally. The Directorate of Migration repatriated more than 12,000 Haitians during the year; more than 180 were officially deported. Many NGOs and international organizations believed the number of repatriations was higher. In some cases, the Government denied those repatriated the opportunity to demonstrate that they were legal residents or to make arrangements for their families or property. Some human rights groups reported that mass deportations occurred less frequently but that abuse of Haitians worsened.

Although the Constitution provides that anyone born in the country is a citizen, except those in transit (which is interpreted to include Haitian migrants) or children born to diplomats, NGOs and Catholic priests familiar with the process protested that children born of Haitian parents in the country generally were denied registration as citizens and were among those deported as illegal Haitians (see Section 5).

In December 2002, a judge ordered the Central Electoral Board (responsible for registering births and providing national identification cards) to grant Dominican nationality to two sons of illegal Haitian immigrants on the grounds that the children were born on Dominican soil. On October 16, the Court of Appeals for Civil Matters upheld the lower court's decision. By year's end, however, the board had not provided the birth certificates, and the lawyers petitioned the Supreme Court to intervene.

NGO representatives working in rural areas alleged that decisions to deport often were made by lower-ranking members of the security forces in conjunction with sugar cane consortium owners, sometimes based upon racial characteristics. Such officials approached persons who looked like Haitians, including persons who had very dark complexions and fairly poor clothing, and engaged them in conversation. If the officials considered that these individuals spoke Spanish poorly or with a noticeable accent, they might detain and deport them. Many NGOs reported that random deportations continued to occur at the end of the sugar cane harvest in order to avoid paying full wages to deportees (see Section 6.e.). Sugar cane companies permitted security guards in work camps to work with military contacts to "round up" and deport Haitian laborers.

While the Government had a policy of strictly enforcing documentary requirements and repatriating those found lacking documents, it appeared to have a more tolerant unofficial policy fueled by the reality of dependence on Haitian labor for certain agricultural and construction work. An individual stopped as a suspected illegal Haitian migrant might be allowed to remain in the country despite lack of documentation, either through bribery or if an account of employment satisfied the official.

NGOs and Catholic priests reported corruption among the military, migration authorities, and other border officials and noted that these government representatives sometimes allowed illegal Haitian workers into the country. For example, one Catholic priest alleged that members of the armed forces along the border allowed more than 20,000 workers to cross the border each harvest season to be "sold" to sugar cane companies at \$20 (1,000 pesos) per person.

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N.

Convention relating to the Status of Refugees and its 1967 Protocol. Although there is legislation and a structure to process refugee claims, the system for implementing the law and determining refugee status did not function properly. The Government did not apply standards agreed upon with the U.N. High Commission on Refugees (UNHCR) to improve receipt and adjudication of refugee claims. To help the Government in this regard, in July the UNHCR strengthened its protection activities in the country by re-establishing its presence in Santo Domingo.

An applicant for refugee status must be referred by the National Office of Refugees in the Migration Directorate to the Technical Subcommittee of the National Commission for Refugees (CONARE), which is chaired by the Foreign Ministry. The subcommittee has the responsibility of making a recommendation to the commission, made up of members from the Foreign Ministry, the DNI, and the Migration Directorate. The commission, with responsibility for the final decision on the application, includes the three members of the subcommittee, the legal advisor to the President and members from the National Police, the Ministry of Labor, and the Attorney General's office.

As of December, the Migration Directorate said that there were 235 pending applications awaiting decision, nearly all by Haitians. Some of these cases have been pending since 2000, when the UNHCR stopped processing cases. According to the UNHCR, there were potentially 600 recognized refugees in the country, most of whom lacked sufficient documentation that would allow them to legally work and access other rights.

Individuals who have gained access to the refugee process and have been issued proof that they are refugees or have applications pending are generally protected from refoulement; however, at least two cases of potential refoulement occurred in 2002. The UNHCR reported the cases to CONARE but never received a response.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully through periodic elections, and citizens exercised this right in practice in generally free and fair elections held on the basis of universal suffrage, most recently in congressional elections in May 2002.

The President and all members of the Senate and the Chamber of Deputies are elected freely on 4-year cycles by secret ballot, as well as mayors and city councils. There is universal adult suffrage; except that active duty police and military personnel may not vote nor may they participate in partisan political activity. However, during the year senior military officers publicly expressed their support for President Mejia's reelection.

Voting is restricted to documented citizens. The Central Electoral Board conducts all elections. In 2002, the legislature adopted constitutional reforms affecting the electoral system, including a provision that the President may be reelected one time.

Congress provided an open forum for the free exchange of views and debate. The main opposition party was the Dominican Liberation Party, which held 1 of 32 seats in the upper house and 42 of 150 seats in the lower house. A third major party, the PRSC of the late President Balaguer, held 2 seats in the upper house and 36 seats in the lower house. Various smaller parties were certified to contest provincial and national elections.

The nation had a functioning multiparty system. Opposition groups of the left, right, and center operated openly. The President exercised his authority through the use of the veto, through presidential decrees, and through influence as the leader of his party. The President appoints the governors of the 32 provinces.

Women and minorities confronted no serious legal impediments to political participation. By law, parties must reserve for women 33 percent of positions on their lists of candidates for city councils; in practice, the parties often placed women so low on the lists as to make their election difficult or impossible. A woman, Milagros Ortiz-Bosch, was Vice President and Minister of Education. One woman served in the 32-member Senate; women held 24 seats in the 150-member Chamber of Deputies; and a woman presided over the Chamber until August. Women served in a limited number of appointed positions, including two other cabinet positions. Women filled 5 of the 16 seats on the Supreme Court.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Nongovernmental human rights organizations generally operated freely without government interference, and government officials were responsive to their views. Principal local groups included the Dominican Human Rights Committee, the National Human Rights Commission, and the nongovernmental Truth Commission (addressing the

Narciso Gonzalez case). In addition, several Haitian groups existed, representing church, women's, and labor interests.

A 2001 law created a human rights ombudsman's office, but selection of a person to fill the position was still pending at year's end. According to the law, the Chamber of Deputies nominates three individuals for Senate approval. The Senate did not approve any of the three nominations submitted by the Chamber early in the year and instead nominated its preferred candidates. In August, leadership of both houses changed and the process stalled. The law provides that the Ombudsman is appointed for 6 years, with authority over public sector problems involving human rights, the environment, women's issues, youth issues, and consumer protection.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The law prohibits discrimination based on race and sex; however, such discrimination existed, and the Government seldom acknowledged its existence or made efforts to combat it.

Women

Domestic violence was considered to be worse than in previous years. Several newspaper articles reported a more violent society, and many government officials publicly denounced the problem. NGOs estimated that 40 percent of women and children were victims of domestic violence. It was estimated that at least 15 women died monthly from domestic abuse; however, many cases were unreported. Under the 1997 Law Against Domestic Violence, the State can prosecute for rape, incest, sexual aggression, and other forms of domestic violence. Penalties for these crimes range from 1 year to 30 years in prison and carry fines ranging from \$10 to \$2,000 (500 to 100,000 pesos). The Secretariat of Women, as well as various NGOs, had outreach programs on domestic violence and legal rights. The Government's center for the legal support and forensic examination of abused women in Villa Juana (Santo Domingo) received 13,111 domestic violence cases during the year; the Secretariat of Women received 4,602 complaints during the first 6 months of the year. There were no shelters for battered women.

According to government statistics, 129 women were killed in "crimes of passion" by their spouses or lovers, compared with 119 victims in 2002. NGOs estimated that spouses or lovers killed more than 200 women during the year. The Department of Family and Children in the Prosecutor's Office processed 11,600 domestic violence complaints, compared with 5,906 cases in 2002.

Rape was a serious problem and was widely underreported. The Santo Domingo District Attorney's office received 2,000 rape or sexual violation complaints during the year. The penalties for committing rape are 10 to 15 years in prison and a fine of \$2,000 to \$4,000 (100,000 to 200,000 pesos). The State may prosecute a suspect for rape even if the victim does not file charges, and rape victims may press charges against a spouse. Victims often did not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would fail to provide redress. The police were reluctant to handle rape cases and often encouraged victims to seek assistance from NGOs.

Prostitution is illegal; however, the Government usually did not enforce prostitution laws. Sex tourism grew throughout the country as the number of international visitors increased. Several human rights groups reported increased prostitution in sugar cane work camps. NGOs conducted programs on HIV/AIDS and sexually transmitted disease for hotel and industrial zone workers, male and female prostitutes, and other high-risk groups. The Domestic Violence Law prohibits acting as an intermediary in a transaction of prostitution, and the Government used the law to prosecute third parties who derived profit from prostitution. Trafficking in women was a problem (see Section 6.f.).

The law prohibits sexual harassment in the workplace; however, the law was not enforced and sexual harassment was widespread. The International Labor Rights Fund estimated that 40 percent of female workers in the free trade zones were victims of sexual harassment by supervisors or coworkers. Labor unions criticized the Ministry of Labor for lack of training about sexual harassment and nonimposition of penalties.

Either spouse may obtain a divorce, and women may hold property in their own names. Traditionally, women have not enjoyed equal social and economic status or opportunity with men, and men held the majority of leadership positions in all sectors. In many instances, women were paid less than men in jobs of equal content and equal skill level. Some employers reportedly gave pregnancy tests to women before hiring them, as part of a required medical examination. Union leaders and human rights advocates reported that pregnant women often were not hired, and that female employees who became pregnant were sometimes fired (see Section 6.a.).

Children

The Government was committed to children's rights and welfare and tried to increase protection for children, with emphasis on eliminating child labor. In August, the Government modified and republished the Code for Minors. The new law recognizes the National Council for Children and Adolescents (CONANI) as the non-Cabinet, decentralized public agency to coordinate public policy to protect children's human rights and to administer the new code. The new law stipulates CONANI is to receive 2 percent of the national budget and that 5 percent of municipal government budgets must be devoted to projects to benefit children.

Although the Code for Minors mandates a minimum of 8 years of formal education, there were no legal mechanisms to induce parents or guardians to send children to school after primary schooling. Children of Haitian descent experienced difficulties gaining acceptance to schooling due to their lack of official status.

The new code contains strengthened provisions against child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor (see Sections 6.d. and 6.f.). It also provides for removal of a mistreated child to a protective environment. According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. However, child abuse received increasing public attention.

Abuse, including physical, sexual, and psychological abuse, was a serious human rights violation against children. The Department of Family and Children in Santo Domingo reported receiving at least five child abuse complaints daily, half of which were abuses against children under age 12. More than 27,000 minors were victims of sexual abuse, domestic violence, or psychological abuse. Few such cases reached the courts due to fear of family embarrassment, lack of economic resources, and lack of knowledge regarding available legal assistance. In 60 percent of the cases, the accused was a person close to the child, such as a family member or close family friend. The criminal law provision on sexual abuse and intrafamily violence provides for a penalty of 10 to 20 years' incarceration and a fine of \$2,160 to \$4,320 (108,000 to 216,000 pesos) for persons found guilty of sexual abuse of a minor, and up to 30 years if the victim is a family member of the abuser.

The Ministry of Health estimated that there were 403 births to adolescents under age 15 during the year; 5,790 births were reported to adolescents between the ages of 15 and 19. Some undefined portion of these resulted from rape or incest. The ministry believed these numbers were underreported due to deteriorating economic conditions and lack of focus on intrafamily issues.

In the National District, the Department of Family and Children in the Office of the Prosecutor arranged counseling and mediation for family conflicts, the execution of court decisions with respect to child protection, and interviews with children whose rights had been violated. The new code outlines detailed procedures for tribunals and courts regarding family law and adolescents who have committed crimes (see Section 1.e.). The new code also obliges public institutions to respect the human rights of children.

Trafficking and sexual exploitation of children was also a serious problem, especially in popular tourist destinations (see Section 6.f.). Poor adolescent girls and boys sometimes were enticed into performing sexual acts by the promise of food or clothing; sometimes they were forced into unsafe relationships with strangers by the need for money. Some of these minors were lured from their parental homes; others were already on the street.

Child labor was a serious problem in the informal sector of the economy (see Section 6.d.). It was common for minors to be put on the street to fend for themselves as parents used meager resources to care for younger siblings. Homeless children called "palomas" (doves) were frequently at the mercy of adults who collected them and put them to work begging and selling fruit, flowers, and other goods on the street. In return for their work they were given basic housing. The ages at which these children worked, the hours they worked, and their failure to comply with compulsory school attendance all violated the law.

Persons with Disabilities

Persons with disabilities encountered discrimination in employment and in the provision of other services. The law provides for physical access for persons with disabilities to all new public and private buildings; however, the authorities did not enforce this law uniformly. Of their own volition, some business owners provided physical access for persons with disabilities. There was a Department for Rehabilitation under the Ministry of Public Health, a recreation center for persons with disabilities in Las Caobas, and a department in the Sports Ministry to facilitate athletic competition for such persons. However, there was little consciousness of the need to make the daily lives of persons with disabilities safer and more convenient. Virtually no effort was made to design public works so as to accommodate persons with disabilities.

The Dominican Rehabilitation Association, which received an estimated 30 percent of its budget from the Government, had 17 affiliates throughout the country and provided services for 2,000 persons daily. Discrimination against persons with mental illness was common, and there were few resources dedicated to the mentally ill.

National/Racial/Ethnic Minorities

Many Dominicans hold strong prejudices against Haitians, a fact which disadvantaged many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of dark complexion (see Sections 1.d. and 2.d.). The Government rarely acknowledged the existence of this discrimination.

Efforts by the authorities to stem the influx of illegal Haitian immigrants made it more difficult for those Haitians already in the country to live peacefully or legally. Police regulations permit the confiscation of vehicles offering transportation to illegal immigrants, thereby discouraging taxi and bus drivers from picking up darker-skinned persons. In roundups aimed at illegal immigrants, the authorities picked up and expelled darker Dominicans as well as legal Haitian residents (see Section 1.d.).

Approximately 650,000 Haitian immigrants--or 7.5 percent of the country's population--lived in shantytowns or sugar cane work camps known as bateyes, in harsh environments with limited or no electricity, running water, or schooling. This estimate was confirmed in the International Organization for Migration's (IOM) Haitian Population Survey completed in July. Human rights NGOs, the Catholic Church, and activists described Haitian living conditions as modern-day slavery. Medical assistance was not readily available in most bateyes. Housing in the bateyes was poor; most individuals slept in barracks on iron beds without mattresses or on dirt floors. Many families of five or more shared living quarters that measured as little as 10 feet square.

Some individuals estimated that as many as 1 million Haitians lived in the country, but several Haitian rights NGOs were concerned that this estimate included Haitians born in Haiti with their offspring born in the Dominican Republic. Human rights groups regularly charged the Government with unlawful deportations of these immigrants and police brutality toward them. Most of these immigrants resided in the country illegally and received little or no protection under the law (see Sections 1.c., 1.d., and 2.d.).

The Government refused to recognize and document as citizens many individuals of Haitian ancestry born in the country (see Section 2.d.). Since many Haitian parents never possessed documentation for their own births, they were unable to demonstrate their own citizenship or that of their children. The Movement of Dominican-Haitian Women (MUDHA) reported that nationals of other countries were allowed to present driver's licenses or passports as identification when seeking to register births or to obtain nationality, and that Haitians were the only nationals required to present a Dominican identity card.

Lack of documentation sometimes deprived children of Haitian descent of the opportunity to attend school, even where there was one available. When permitted to attend primary school, the children of Haitian parents rarely progressed beyond sixth grade. In 2001, the Secretary of Education announced that all children would be allowed to enroll in school through the eighth grade, whether or not they had a birth certificate. The Central Electoral Board agreed to facilitate acquisition of birth certificates by parents who could produce identity cards in order that all children would have birth certificates to enroll in school; however, this did not help children whose parents had no documentation or only Haitian identification papers. NGOs reported that undocumented Haitian children were prevented from enrolling in school to a greater degree than were similarly undocumented Dominican children. According to MOSCTHA, 40 percent of Haitian children never attended school.

Some poor Haitian families arranged for Dominican families to "adopt" and employ their children, in hopes of assuring a more promising future for them. The adopting parents usually registered the child as their own. In exchange, the birth parents received monetary payment or a supply of clothes and food. In many cases, adoptive parents did not treat the adopted children as full family members and expected them to work in the households or family businesses rather than to attend school. This resulted in a kind of indentured servitude, at least until the young person reached majority (see Section 6.c.). There were reports that Haitian girls between the ages of 10 and 14 were the most sought after, especially in border areas.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the freedom to organize labor unions, and all workers, except the military and the police, were free to organize. Organized labor represented an estimated 10 percent of the work force and was

divided among four major confederations and a number of independent unions. There were 3,560 registered unions in the country, but an estimated 75 percent were inactive. The Labor Code provides extensive protection for worker rights and specifies the steps legally required to establish a union, federation, or confederation. The code calls for automatic recognition of a union if the Government has not acted on its application within 30 days. In practice, the Government facilitated recognition of labor organizations.

The Government generally respected association rights and placed no obstacles to union registration, affiliation, or the ability to engage in legal strikes. However, enforcement of labor laws was sometimes unreliable, inhibiting employees from freely exercising their rights.

Unions were independent of the Government and generally independent of political parties. The law forbidding companies to fire union organizers or members was enforced inconsistently, and penalties were insufficient to deter employers from violating worker rights. There were additional reports of widespread intimidation by employers in an effort to prevent union activity, especially in the FTZs (see Section 6.b.). The International Confederation of Free Trade Unions asserted that in the Santiago free trade zone, black lists of labor activists were circulated to discourage companies from hiring union workers.

The Dominican Federation of Free Trade Zone Workers (FEDOTRAZONAS) continued to report significant anti-union activity at the FM company in Santiago, 1 of 22 production facilities belonging to apparel manufacturing firm Grupo M, the largest private sector employer in the country. FEDOTRAZONAS reported instances of violence and intimidation against workers seeking to organize Grupo M to the International Finance Corporation, and Grupo M agreed to meet with FEDOTRAZONAS to discuss problems at the FM company. As of year's end, the FM company still refused to allow its employees to unionize, but its parent company had begun talks with FEDOTRAZONAS. An FM company supervisor, Miguel Andres de Leon, brutally beat an employee for attending labor union organizing meetings. The Ministry of Labor investigated the allegations; the investigation's outcome was pending.

According to the Dominican Solidarity Center, in 2002 the FTZ company Ramsa in Santiago fired approximately 140 employees without cause when they sought a collective bargaining agreement. Four women alleged Ramsa fired them because they became pregnant. The Secretariat of Labor cited Ramsa for violating the Labor Code, including maternity rights violations, and charged the company with violating the Penal Code. The initial hearing on the matter was held in January; the case was still pending in a labor court at year's end.

Labor unions could and did affiliate freely regionally and internationally.

b. The Right to Organize and Bargain Collectively

Collective bargaining is legal and must take place in firms in which a union has gained the support of an absolute majority of the workers. Few companies have collective bargaining pacts, and the International Labor Organization (ILO) considered the requirements for collective bargaining rights to be excessive and an impediment to collective bargaining. The Labor Code stipulates that workers cannot be dismissed because of their trade union membership or activities; however, in practice, some workers were fired because of their union activities.

The Labor Code establishes a system of labor courts for dealing with disputes. While cases did make their way through the labor courts, enforcement of judgments was sometimes unreliable. The Ministry of Labor claimed that several disputes were settled out of court.

The Constitution provides for the right of workers to strike (and for private sector employers to lock out workers). Formal requirements for a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike. Government workers and essential public service personnel are not allowed to strike. Brief work stoppages and unofficial strikes were more common.

A few labor unions, such as the Autonomous Labor Confederation (CASC), represented a small number of Haitian workers. According to CASC, Haitian laborers in the rice and coffee industries were better protected than those involved with sugar cane or construction and earned wages equal to those of local citizens. CEDAIL acknowledged that the Labor Code protects foreigners, including Haitians, regardless of legal status. Some NGOs reported that the majority of Haitian laborers in the sugar and construction industries did not exercise their rights under the Labor Code, fearing deportation or job loss.

The Labor Code applies in the 40 established FTZs, which employed approximately 190,000 workers. According to

the National Council of Labor Unions, only 15 of the 180 unions registered in FTZs were active; 6 had achieved collective bargaining agreements. In August, Loadway Enterprises in the Bonao FTZ signed a collective bargaining agreement; this was the first one signed in an FTZ since 1997. Workplace regulations and their enforcement in the FTZs did not differ from those in the country at large, although working conditions were sometimes better, and the pay was occasionally higher. Mandatory overtime was a common practice, and it was sometimes enforced through locked doors or loss of pay or jobs for those who refused (see Section 6.c.).

There were reports of widespread covert intimidation by employers in the FTZs in an effort to prevent union activity (see Section 6.a.). Unions in the FTZs reported that their members hesitated to discuss union activity at work, even during break time, for fear of losing their jobs. Some FTZ companies were accused of discharging workers who attempted to organize unions. The majority of the unions in the FTZs were affiliated with the National Federation of Free Trade Zone Workers (FENATRAZONAS) or FEDOTRAZONAS (see Section 6.a.). FENATRAZONAS estimated that only 3 percent of the workers in the FTZs were unionized. In recent years, employer resistance to union organization, especially in the FTZs, has increased in response to increased competitive pressure from firms in Central American countries and China.

Many of the major manufacturers in the FTZs had voluntary "codes of conduct" that included worker rights protection clauses; however, these were not necessarily aligned with the ILO's Fundamental Principles and Rights at Work. Workers rarely had heard of such codes or the principles they contained. There was no indication that workers received training about the codes, that workers had any effective means of asserting their rights under them, or that any of the codes were subject to credible independent monitoring.

c. Prohibition of Forced or Bonded Labor

The law prohibits all forms of forced or bonded labor, including by children; however, such practices still existed, affecting both adults and children. Young children "adopted" by families worked under a kind of indentured servitude, and homeless children were made to beg by adults (see Section 5). Trafficking in women and children, particularly for purposes of prostitution, existed (see Section 6.f.).

The FENATRAZONAS noted that mandatory overtime in the FTZ factories was a common practice. Some workers reported that their employers locked factory doors with chains so they could not leave, and took incentive pay away from or fired those who refused to work overtime. For example, many companies used an incentive system in which a team of 12 to 15 persons was given a quota to fill by the end of the week, in order to receive extra benefits. Most teams were unable to fill the quota to receive the benefits and were not paid overtime pay for the extra time they put in to attempt to fill the quota. Union officials stated that newly hired workers were not informed that overtime was optional.

d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Code and the new Code for Minors prohibit employment of children less than 14 years of age and place restrictions on the employment of children under the age of 16; however, child labor was a serious problem. Regulations applying to children between the ages of 14 and 16 limited the number of hours worked daily to 6, prohibited employment in dangerous occupations or in establishments serving alcohol, and limited nighttime work. Fines and legal sanctions may be applied to firms employing underage children. Children between the ages of 14 and 16 may work in apprenticeship and artistic programs.

The high level of overall unemployment and the lack of a social safety net created pressures on families to allow or encourage children to earn supplemental income. Tens of thousands of children began working before the age of 14. Child labor took place primarily in the informal economy, small businesses, clandestine factories, sugar cane fields, and prostitution. Conditions in clandestine factories were generally poor, unsanitary, and often dangerous. The Government attempted to eliminate the use of children for cutting sugar cane; however, there were still some reports that poor Haitian and Dominican adolescents accompanied their parents to work in the cane fields, with tacit approval of sugar companies. Human rights groups reported Haitian 14- and 15-year-olds working in the cane fields. A priest working in the sugar cane producing province of San Pedro de Macoris reported that undocumented Haitian 7- and 9-year-olds also worked planting seeds and were paid \$0.40 (20 pesos) per day. The Ministry of Foreign Affairs estimated that more than 60,000 Haitian children worked in agriculture.

The Ministry of Labor, in collaboration with the ILO's Program for the Eradication of Child Labor and other international labor rights organizations, continued programs to combat child labor. These included programs in the tomato-producing province of Azua, the coffee-growing province of San Jose de Ocoa, the agricultural province of Constanza, and a new program against the commercial sexual exploitation of minors in popular tourist

destinations. In September, the Ministry of Labor launched the Time Bound Program, which aims to reduce child labor significantly by 2007. An ILO-Ministry of Labor program in Boca Chica against the commercial sexual exploitation of minors, implemented by an NGO, the Institute for the Family, is to provide psychological support and medical assistance, return children to classrooms, and reunify children with their families and communities whenever possible. The program, which began in October, also provides legal assistance to child victims in order to arrest and convict exploiters.

There were no confirmed reports of forced child labor in the formal sector.

e. Acceptable Conditions of Work

The Constitution empowers the executive branch to set minimum wage levels, and the Labor Code assigns this task to a national salary committee. Congress enacts minimum wage legislation. The minimum monthly salary was approximately \$58 (2,877 pesos) in the FTZs and \$78 (3,890 pesos) outside the FTZs. The minimum wage did not provide a decent standard of living for a worker and family. In response to the economic downturn, in September the National Salaries Committee approved a 25 percent increase in minimum wages, which will be implemented in January 2004.

The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The code stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. In practice, a typical workweek was Monday through Friday plus a half day on Saturday, but longer hours were common. The code grants workers a 35 percent differential for work totaling between 44 hours to 68 hours per week and double time for any hours above 68 hours per week. Overtime was mandatory at some firms in the FTZs (see Section 6.c.).

Conditions for agricultural workers were poor, especially in the sugar industry. Most sugar cane worker villages lacked schools, medical facilities, running water, and sewage systems, and had high rates of disease. Approximately 83 percent of sugar cane workers were Haitian or of Haitian descent. However, the Ministry of Labor estimated that sugar cane companies contracted only 3 percent of the Haitians living in the country.

Several construction companies carrying out government contracts solicited cheap labor from illegal migrants. Participacion Ciudadana, an NGO, estimated that 40 percent of construction projects operated without proper permits. Many Haitians reportedly worked 15-20 hours a day on construction projects, and it was not unusual to see them living temporarily in the buildings they were constructing.

To address the problem of undocumented workers, the Directorate of Migration began an outreach program in May to issue temporary work permits, which cost \$23 (1,150 pesos) per migrant, available even when migrants had no proof of legal status. Construction and agricultural associations were contacted to implement the program. As a result, more than 16,000 temporary residence permits were issued to employ Haitians. The permits are valid for 6 months and are renewable by the Directorate of Migration. Several Haitians who had lived in the country for 20 years or more used this permit to maintain a quasi-legal temporary work status, even though it precluded them from obtaining legal permanent residency. According to the Director of Migration, if the employer decides not to renew a contract, the employee is required to report that decision to Migration officials. All Haitians seeking temporary residency must undergo a health screening. If a contagious disease is diagnosed, deportation proceedings begin. The Director of Migration reported that the Department of Health determined that many Haitians were infected with Hepatitis B and HIV/AIDS. The Director of MUDHA stated that, according to an official at Migration, more than 30,000 Haitians were repatriated during the year for the following reasons: Diagnosis of Hepatitis B, HIV/AIDS, or failing to provide evidence of a work permit.

On sugar plantations, cane cutters usually were paid by the weight of cane cut rather than the hours worked. Employers often did not provide trucks to transport the newly cut cane at the conclusion of the workday, causing workers to receive lower compensation because the cane dried and weighed less. Many cane cutters earned \$1.60 (80 pesos) per day and were paid in tickets that were redeemable for cash every 2 weeks. Some cane cutters reported earning as little as \$1.00 (50 pesos) per day. Because workers earned so little and sometimes could not wait until payday to redeem their tickets, an informal barter system evolved in which the tickets also were used to purchase items at private stores located on the plantations. These private stores made change by giving back a combination of tickets and cash, but the stores often retained 10 percent of the cash due a customer as a "service charge."

In various sugarcane industry shantytowns, field guards reportedly kept workers' clothes and documents to prevent them from leaving. Employers also withheld wages to keep workers in the fields. Workers were paid less, worked longer hours, and had fewer benefits than workers in other industries, according to the Dominican Human Rights

Committee. A priest working in the region reported that Haitian workers in his parish worked 14-16 hours per day—a violation of the Labor Code. The Dominican Center for Counsel and Legal Investigations, an NGO, reported that many older Haitians, who had lived in sugarcane shantytowns for 50 years and longer, had not received pensions. Several NGOs asserted that the privatization of the sugar cane industry is the reason the Government does not enforce protection laws for cane cutters' rights.

As a result of meetings with sugar cane company owners to discuss worker rights in the bateyes, in 2001 the San Pedro de Macoris Diocese submitted a proposed model work contract (recognizing ILO standards) to the Vicini Consortium and other companies. The diocese, in cooperation with local NGOs, continued its dialog with the Vicini family to promote Haitian worker rights in the bateyes and to obtain a work contract for Haitian sugar cane cutters.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. Both the IDSS and the Ministry of Labor had a small corps of inspectors charged with enforcing standards. The Secretariat of Labor had 175 active inspectors. Inspector positions customarily were filled through political patronage, and inspectors often took bribes from businesses. In practice, workers could not remove themselves from hazardous working situations without losing their jobs.

f. Trafficking in Persons

In August, President Mejia signed into law a comprehensive Law Against Trafficking in Persons and Alien Smuggling; however, trafficking in women and children from, to, and within the country remained a serious problem.

Several laws may be applied to prosecute those who traffic in persons. The new law against trafficking is most comprehensive and includes penalties for traffickers of 15 to 20 years' imprisonment along with a fine of 175 times the minimum wage. The law also includes a provision against alien smuggling, which carries a 10- to 15-year prison sentence and a fine of 150 to 250 times the minimum wage. The revised Code for Minors penalizes sexual abuse of children with 20 to 30 years' imprisonment and fines from \$2,000-\$10,000 (100,000-500,000 pesos).

During the year, the Government created units at the National Police and Attorney General's office targeted against trafficking in persons. The Inter-institutional Committee for the Protection of Migrant Women, composed of seven governmental institutions, one professional association, two NGOs, and a religious order, remained the lead organization with respect to fighting trafficking. The Ministry of Foreign Affairs assumed a more active role by coordinating seminars on implementing the new law for agencies and organizations responsible for combating trafficking. The Foundation for Institutionalism and Justice, an NGO, also began training for prosecutors and judges on how to implement the new law.

Government agencies that had a role in combating trafficking often kept statistics only on illegal immigration, since they seldom differentiated between trafficking and illegal immigration. Not all illegal migrants were trafficked; many traveled willingly for economic motives. NGOs such as the Center for Integral Orientation and Investigation (COIN), and international organizations such as UNICEF and the IOM were able to provide general numbers through interviews with individuals and extrapolation.

Women 18 to 25 years of age were at the highest risk of being trafficked. Principal destination countries were in Europe and Latin America, and included Spain, Italy, the Netherlands, Switzerland, Germany, Greece, Belgium, Curaçao, San Martin, Aruba, Panama, Venezuela, and Argentina. A number of women brought from the Dominican Republic to work in Argentina in the mid- to late-1990s were coerced into prostitution, and an investigation encompassing nearly a dozen such women continued. Within the country there was a serious problem of prostitution of minors, primarily in the tourist areas. Newspaper reports indicated that as many as 30,000 children and adolescents may be involved in the sex industry. The Foreign Ministry reported as a new trend the trafficking of 14- to 16-year-old children to Haiti to work as prostitutes.

The Directorate of Migration estimated that there were hundreds of alien smuggling and trafficking rings operating within the country. According to COIN and the IOM, trafficking organizations were typically small groups. Usually there was a contact in the destination country and a few persons in the Dominican Republic who recruited the persons to be trafficked and handled obtaining identification and travel documents.

Some elements within the tourist industry facilitated the sexual exploitation of children. Particular problem areas were Boca Chica, Puerto Plata, and Sosua. Foreigners overseas marketed tours by suggesting that boys and girls could be found as sex partners. The Inter-Institutional Commission against the Commercial Sexual Exploitation of Children and Adolescents estimated that 65 percent of child sex abusers in tourist areas were foreigners; 35 percent were Dominicans. In nontourist areas, the statistics reversed; 70 percent of sex abusers were Dominicans

and 30 percent were foreigners.

The Government provided limited assistance to trafficking victims by working with NGOs to develop job-training programs for returned women. When trafficked individuals were repatriated from abroad, they were given a "control record" that went into their official police record, and they were interviewed by a Migration Inspector. According to COIN, most victims were too embarrassed or afraid to seek legal action against traffickers. The Government continued specialized training for Dominican consular officials posted in Europe on how to provide assistance to trafficked persons. COIN worked to develop relationships with embassies and consulates that serve trafficked victims and with other NGOs in destination countries that serve similar populations. There were several church-run shelters that provided refuge to children who escaped prostitution.

The Government made efforts to investigate, fire, and prosecute when appropriate public officials that facilitated, condoned, or were complicit in trafficking activities or migrant smuggling. The Director of Migration reported that since 2001, 345 inspectors and supervisors had been fired for trafficking or smuggling activities; 107 individuals were terminated during the year. A former consul in Cap Haitien was indicted on smuggling charges and was put on trial in October (see Section 1.c.). NGOs alleged corruption among the military and migration border officials and noted that these officials sometimes facilitated the illegal transit of Haitian workers into the country to work on sugar plantations and construction sites (see Sections 2.d. and 6.c.).

The Department of Family and Children was concerned about kidnappings, especially of infants, for sale to foreigners who deliberately sidestepped legal formalities, including those of their own countries. The Government sought to protect children from being victimized by those who would adopt them by making such adoptions more difficult.

COIN counseled women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other problems, including the dangers of trafficking, forced prostitution, and domestic servitude. COIN administered the Center for Health and Migration Information for Migrant Women, which carried out community education campaigns in high risk areas on various issues, including citizenship, legal work requirements, dangers of trafficking, forced prostitution, and domestic servitude. With IOM support, COIN also provided a minimal level of clinical services and adult education classes for returned women.

During the year, the Ministry of Education trained 3,000 schoolteachers in high-risk areas on preventing child sexual exploitation. In August, the Inter-Institutional Commission launched mass media campaigns warning potential violators of penalties for sexual abuse of children. The campaigns were launched in cooperation with the National Association of Hotels and Resorts, which was expected to train tourism employees about exploitation of minors and post billboards about the law.